

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the operations, practices, and conduct of Qwest Communications Corporation (Qwest), U-5335-C and its wholly owned subsidiary, LCI International Telecommunications Corporation, doing business as Qwest Communications Services (LCIT) , U-5270-C to determine whether Qwest and LCIT have violated the laws, rules and regulations governing the manner in which California consumers are switched from one long distance carrier to another and billed for long distance telephone services.

Investigation 00-11-052  
(Filed November 21, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ADDRESSING THE ADMISSION OF CERTAIN EXHIBITS,  
TRANSCRIPT CORRECTIONS AND MOTION TO STRIKE**

This ruling addresses the admission of certain exhibits, transcript corrections, and Qwest Communication Corporation's (Qwest) Motion to Strike the Consumer Services Division's (CSD)<sup>1</sup> July 22, 2002 letter and attachments.

**A. Exhibits**

On the last day of hearing, I reserved certain exhibit numbers for late-filed exhibits. Additionally, the parties agreed to admit into evidence as Exhibit 318

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<sup>1</sup> CSD's name is now changed to the Consumer Protection and Services Division . We use CSD in this ruling because that name was in effect when the motion and response were filed.

“Greenlining/LIF Response to Undated, Unsigned Data Requests from Qwest” in lieu of cross-examining the Greenlining Institute/Latino Issues Forum (Greenlining/LIF) witnesses Gamboa and Arteaga, but Qwest inadvertently did not move this exhibit into evidence.

The following late-filed exhibits have been served on the parties, and I have not received any objection as to their receipt into evidence. The following items are therefore received into evidence as of the last day of the hearings, May 11, 2001:

Exhibit 315: Explanation of “Informational” as Used in Merger Complaint Report

Exhibit 316: Corrections to the Deposition of Mark Pitchford of April 24, 2001

Exhibit 317: Corrections to the Deposition of Ann Kelly of April 19, 2001

Exhibit 318: Greenlining/LIF Response to Data Request from Qwest

Additionally, by May 17, 2001, Qwest requests that I admit as a late-filed exhibit a supplemental Complaint Report for the Second, Third, and Fourth Quarters of 2000 that Qwest filed with the Office of Ratepayer Advocates and the CSD. Greenlining/LIF strongly objects to this exhibit’s admission because it was not subject to cross examination. Since Qwest did not tender this exhibit until after the close of hearings, and the record is now closed, I do not receive this item into evidence. However, Qwest’s May 17, 2001, letter request will be placed in the correspondence file with the CD ram under seal as set forth in the ruling paragraph below.

## **B. Transcript Corrections**

Parties were afforded the opportunity after the hearings concluded to make recommendations for corrections to the transcripts of the evidentiary

hearings. The following requests are adopted, and other recommended changes are rejected.

**From Qwest:**

Transcript, page 89, line 20 (Tr. 89:20): change “charges” to “charts”

Tr. 189:26: change “report” to “recording”

Tr. 228:23: change “Collect” to “LEC”

Tr. 282:26: change “what” to “that”

Tr. 316:11: delete “—any other like” and substitute “LECs, how many other”

Tr. 394:1: insert “or” between “section” and “not”

Tr. 400:10: change “they” to “we”

Tr. 437:3: change “one” to “once” and delete “—fixed”

Tr. 470:5: change “east” to “least”

Tr. 477:16: delete “.Bresults” and substitute “, and better results.”

Tr. 501:26: change “called” to “calling”

Tr. 527:11: change “place” to “please”

Tr. 554:10: change “like” to “LEC-”

Tr.559:27: change “any” to “my”

Tr. 643:28: delete “CIC’d” and substitute “kicked in”

Tr.742:11: delete “credit” and substitute “cram”

**From Greenlining/LIF**

Tr. 668:26: change “nab” to “and”

Tr.688:25: change “interLATA” to “intraLATA”

Tr. 694:9: change “125” to “1.25”

Tr. 785:23: change “thing” to “think”

### **C. Motion to Strike**

Qwest moves to strike CSD's July 22, 2002 letter and attachments which address CSD's opinion of the number of PIC disputes alleged against Qwest in 2001. CSD served this letter on the Commissioners and all parties after the oral argument in this case. Qwest argues that CSD's letter is a prohibited ex parte communication, that it is inaccurate, and should be stricken. CSD claims it was responding to a question by a Commissioner to provide more information, that its letter and graphs, like all items provided at oral argument, are not evidence, and there is nothing to strike from the record.

The record is ambiguous as to whether, during oral argument, the Commission requested CSD to supplement the oral argument transcript. However, none of the handouts and briefing boards used in oral argument will be received as exhibits. (See June 11, 2002 Assigned Commissioner and Administrative Law Judge Ruling Scheduling Oral Argument, page 3.) Because CSD was able to generally address Qwest's handouts and briefing boards in oral argument, and I do not want the oral argument debate to continue in numerous post-argument filings, Qwest's motion is granted insofar as the Commission shall not consider CSD's July 22, 2002 letter and attachments as evidence in making its decision in this case.

#### **IT IS RULED** that:

1. The exhibits set forth in Section A are received into evidence as of May 11, 2001.
2. Qwest's May 17, 2001 letter to admit as a late-filed exhibit a supplemental Complaint Report for the Second, Third, and Fourth Quarters of 2000 that Qwest filed with the Office of Ratepayer Advocates and CSD is denied. However, Qwest's May 17, 2001 letter request and attached CD will be placed in the

correspondence file with the CD under seal as set forth in the ruling paragraph below.

3. The CD ram attached to Qwest's May 17, 2001 letter placed in the correspondence file, which contains customer-sensitive information, shall remain under seal and shall not be made accessible or disclosed to anyone other than Commission staff except on further order or ruling of the Commission, the Assigned Commissioner, the assigned ALJ, or the ALJ then designated as Law and Motion Judge.

4. The transcript corrections set forth in Section B are adopted.

5. The Commission shall not consider CSD's July 22, 2002 letter and attachments as evidence in making their decision in this case.

Dated September 13, 2002, at San Francisco, California.

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Janet A. Econome  
Administrative Law Judge

## **CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Addressing the Admission of Certain Exhibits, Transcript Corrections and Motion to Strike on all parties of record in this proceeding or their attorneys of record.

Dated September 13, 2002, at San Francisco, California.

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Teresita C. Gallardo

## **N O T I C E**

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